

Todd Tiahrt
P.O. Box 530 | Goddard, Kansas | 67052

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OFFICE OF GENERAL
COUNSEL

August 15, 2014

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Kim Collins, Paralegal
999 E. Street, NW
Washington, DC 20436

Re: MUR 6849
Kansans for Tiahrt and Todd Tiahrt

Dear Mr. Jordan,

On behalf of Kansans for Tiahrt ("Campaign Committee"), George Bruce as treasurer, and myself, I submit this letter in response to the Complaint filed by Jean Deterding ("Complainant") dated June 26, 2014, designated as Matter Under Review 6849. By letter dated July 10, 2014, we requested an extension to respond to the Complaint and that request was granted by letter dated July 15, 2014.

The Federal Election Campaign Act, as amended ("FECA"), specifies that "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate." 11 U.S.C. 441a(a)(7)(B)(i). Under Federal Election Commission ("Commission") regulations, a public communication is coordinated *with a candidate, an authorized committee, or an agent of the foregoing*, and constitutes an in-kind contribution when a following three-prong test is satisfied: (1) the communication is paid for by someone other than a candidate, the candidate's authorized committee or an agent of either; (2) the communication satisfies one of the content standards set forth in 11 C.F.R. § 109.21(c); and (3) the communication satisfies one of the conduct standards set forth in 11 C.F.R. § 109.21(d). 11 C.F.R. 109.21(a).

There is no evidence to support the allegations in the Complaint. Accordingly, this Complaint should be summarily dismissed.

The "facts" cited in the Complaint consist merely of speculation and vague assertions regarding several events that occurred before I became a candidate and information from my Campaign Committee's publicly available website. Complainant even stretches so far as to cite a re-tweet of a fake Twitter account created to spoof the incumbent member of Congress, Rep. Mike Pompeo, who is a personal and long-time friend of Complainant.¹

¹ In the following article, Complainant admits to a 15-year friendship with Rep. Pompeo and that she is "not by any means unbiased." *Former congressman faces FEC complaint in primary fight*, Washington

Complainant filed a baseless allegation of coordination in an attempt to derail my campaign and chill the First Amendment rights of Kansas citizens who chose to exercise those rights to independently and publicly support or oppose candidates for federal office. Although these "facts" fail to present any actual evidence to support the allegation of coordination, or evidence to satisfy the "conduct" prong defined at 11 C.F.R. 109.21(d), I will answer each of these assertions in the order in which presented on pages 1-4 of the Complaint.

1. The former business location of Todd Tiahrt, LLC, occupied from 2011-2013 (long before I became a candidate in May 2014), does not support Complainant's allegation of coordination.
2. Wink Hartman's candidacy four years ago and the results of the 2010 election fail to support Complainant's allegation of coordination.
3. An event held more than four months before I became a candidate fails to support Complainant's allegation of coordination. I have served as National Committeeman of Kansas for the Republican National Committee ("RNC") since January 2011.² The event cited by Complainant was the "National Committeeman Reception" which I attended in my official capacity as National Committeeman for Kansas.³ Complainant offers no evidence to substantiate Complainant's allegations regarding the event.
4. The required FEC registration of Kansans for Responsible Government fails to support the allegation of coordination.
5. Zoe Newton's presence at my announcement event fails to support Complainant's allegation of coordination. Ms. Newton is a self-employed attorney. Ms. Newton left her former position with Hartman Companies in May 2013, one year before my May 29, 2014 announcement event.⁴
6. The action of filing with the Kansas Secretary of State to be included on the August 5, 2014 primary ballot fails to support Complainant's allegation of coordination.
7. The action of registering with the Commission, George Bruce's position as treasurer of Kansans for Tiahrt, and Mr. Bruce's position as registered agent for Todd Tiahrt, LLC, fail to support Complainant's allegation of coordination.

Examiner, (July 8, 2014 3:05 P.M.), <http://washingtonexaminer.com/former-congressman-faces-fec-complaint-in-primary-fight/article/2550611>.

² Members, Republican National Committee, <http://www.gop.com/members/kansas/todd-tiahrt/>.

³ Current Schedule, 2014 Kansas Republican Party Convention, <http://ksgop.org/wp-content/uploads/2013/12/Convention-Sheet.pdf>.

⁴ Zoe Newton, LinkedIn.com, <http://www.linkedin.com/pub/zoe-newton/15/611/262>.

8. Mr. Hartman's contributions to my previous campaign committees (the most recent of which was terminated following the 2010 Kansas primary) fail to support Complainant's allegation of coordination.
9. Complainant speculates that the "close timing" between my May 29, 2014 announcement and Kansans for Responsible Government's disbursement "indicates" that coordination "occurred regularly." This unsubstantiated allegation provides absolutely no evidence of coordination. Kansans for Tiahrt and Kansans for Responsible Government hardly need to coordinate to determine that public advertisements should be produced and disseminated as soon as funds are available in order to influence a contested election lasting only nine weeks.
10. Mr. Hartman's personal email regarding a June 2, 2014 fundraiser (which Complainant attached to the Complaint) fails to support Complainant's allegation of coordination or provide evidence of coordination. The email invites attendees to "hear [my] vision going forward." I spoke to attendees regarding my general disappointment with the state of affairs in the 4th District of Kansas and America and why I was running for Congress.
11. Mr. Hartman's public statements in support of my candidacy are his First Amendment right under the U.S. Constitution and such public statements fail to support Complainant's allegation of coordination.
12. Complainant again makes an unsubstantiated allegation that "[a]ccording to reliable information from local Wichita radio executives," that State Senator O'Donnell "brokered the deal" to establish radio programs for myself and for Mr. Hartman. Rick Betzen, General Manager of KQAM, invited me to host an hour-long talk show as part of KQAM's new talk show line-up for Monday through Friday. Several local Kansas business and political leaders were invited and agreed to host programs throughout the week.⁵
13. Sen. O'Donnell's involvement with Mr. Hartman's business and Sen. O'Donnell's involvement with Mr. Hartman's campaign four years ago fail to support Complainant's allegation of coordination in this matter.
14. Jim Anderson's call-in to the "Tuesdays with Tiahrt" KQAM radio broadcast program and the location of Kansans for Responsible Government's mailbox fail to support Complainant's allegation of coordination.
15. Complainant makes a completely baseless allegation that State Senator Michael O'Donnell "has been instrumental in securing radio and TV broadcast appearances and advertising spots on behalf of Tiahrt..." The Complaint cites "various media executives in Wichita, Kansas" but fails to name or quote any such individuals. Kansans for Tiahrt did not even secure TV or radio spots until July 2, 2014, as evidenced in the required Federal Communications

⁵ Wichita's 1480 KQAM - The Big Talker, Steckline Communications,
<http://www.kqamradio.com/kqam>.

Commission filings.⁶ Complainant's allegation that Sen. O'Donnell secured appearances and advertising on my behalf is completely lacking in merit and fails to support Complainant's allegation of coordination.

16. Again, Complainant makes unsubstantiated and baseless allegations that Sen. O'Donnell facilitated public appearances to support and promote my candidacy. The Complaint grossly overstates the legal importance of five public events from April 14, 2014 to May 22, 2014, all of which I attended before I became a candidate and at which I appeared in my official capacity as RNC National Committeeman for Kansas.⁷ Numerous other candidates, elected officials, and constituents attended these events. Sen. O'Donnell did not represent my Campaign Committee at these events. My Campaign Committee did not even exist at the time of these events. Complainant makes speculative allegations that Sen. O'Donnell and I "arrived together" and "worked the room together" without offering any evidence to substantiate these claims. Complainant presents mere speculation and allegations around these events, none of which support Complainant's allegations of coordination.
17. Complainant cites and submits as Exhibit 15, Sen. O'Donnell's "retweet" (*i.e.*, re-publishing) of statements made by an anonymous Twitter account entitled "Congressman Phonetap" which spoofs Rep. Mike Pompeo. Sen. O'Donnell's public Twitter activity is his First Amendment right under the U.S. Constitution and such public statements fail to support Complainant's allegation of coordination.
18. Complainant's allegation that respondents "coordinated themes and messages" fails to support the allegation of coordination. The Kansans for Responsible Government communication did not constitute "republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committee, or their authorized agents" as defined in FECA.⁸ In previous matters, the Commission has explained that republication includes the "reprinting and dissemination

⁶ TV Station Profiles & Public Inspection Files, FCC.gov. *See*, Kansans for Tiahrt, Agreement Forms for Political Candidate Advertisements: KAKE ad buys, July 2, 2014:

[https://stations.fcc.gov/collect/files/65522/Political%20File/2014/Federal/US%20House/Todd%20Tihart%20for%20House%20-%20CANDIDATE%20NAT%2007-07-14%20\(14044115883385\).pdf](https://stations.fcc.gov/collect/files/65522/Political%20File/2014/Federal/US%20House/Todd%20Tihart%20for%20House%20-%20CANDIDATE%20NAT%2007-07-14%20(14044115883385).pdf); KSN ad buys, July 2, 2014:

[https://stations.fcc.gov/collect/files/72358/Political%20File/2014/Federal/US%20House/Todd%20Tiahrt%207.7%20-%208.4.2014%20\(14044077457120\).pdf](https://stations.fcc.gov/collect/files/72358/Political%20File/2014/Federal/US%20House/Todd%20Tiahrt%207.7%20-%208.4.2014%20(14044077457120).pdf); KWCH ad buys, July 2, 2014:

[https://stations.fcc.gov/collect/files/66413/Political%20File/2014/Federal/US%20House/US%20HOUSE%20KS-4/TODD%20TIAHRT%20FOR%20US%20HOUSE%20DIST%204/TODD%20TIAHART%20FOR%20US%20HOUSE%20DIST%204%207.15.14%20KWCH%20\(14055236554275\).pdf](https://stations.fcc.gov/collect/files/66413/Political%20File/2014/Federal/US%20House/US%20HOUSE%20KS-4/TODD%20TIAHRT%20FOR%20US%20HOUSE%20DIST%204/TODD%20TIAHART%20FOR%20US%20HOUSE%20DIST%204%207.15.14%20KWCH%20(14055236554275).pdf).

⁷ For example, in the Complaint at 16.d., Complainant cites the May 16, 2014, Wichita Pachyderm meeting, recorded by Voice for Liberty in Wichita and available at <http://wichitaliberty.org/politics/voice-liberty-radio-todd-tiahrt/>. In the recording, I am introduced as RNC Committeeman and I report on recent RNC activities and "things [Republicans] are doing inside the party to make a stronger case for getting a Republican president next time."

⁸ 2 U.S.C. 441a(a)(7)(B)(iii).

of a candidate's mailers, brochures, yard signs, billboards or posters" and "materials that copy and convey a campaign's message."⁹ Further, "[FECA's] republication provision is designed to capture situations where third parties, in essence, subsidize a candidate's campaign by expanding the distribution of communications whose content, format, and overall message are devised by the candidate."¹⁰ As the Complaint itself makes clear at number 18, the Kansans for Responsible Government radio communication did not republish my Campaign Committee's materials or message. Kansans for Responsible Government did not repeat verbatim the content from my publicly available Internet website, but created its own message based on matters of national importance.

19. Complainant's allegations regarding Kansans for Responsible Government's reports to the Commission fail to support Complainant's allegation of coordination.
20. Complainant's allegations regarding Kansans for Responsible Government's radio communication disclaimer fail to support Complainant's allegation of coordination.
21. PostNet provides printing services and my Campaign Committee ordered signs from PostNet, as reported on Schedule B of the Kansans for Tiahrt July quarterly FEC filing dated July 13, 2014. PostNet also serves as a private, secure location for many mailbox rentals. PostNet's rental of a private mailbox to Kansans for Responsible Government does not fit the definition of "common vendor" as described in 11 C.F.R. § 109.21(d)(4) and thus does not meet the "conduct" prong of the coordination test. Again, Complainant provides only mere speculation, which fails to support the allegation of coordination.

Conclusion

The Complaint spends considerable time discussing irrelevant public appearances made before I was a candidate and relying on circumstantial evidence, all of which fail to aver facts that meet the specific "conduct" standards of the three-prong coordination test and which otherwise fail to support the allegation of coordination. This was purely an attempt to divert my campaign with a harassing complaint. Assisted with the help of Rep. Pompeo's Chief of Staff and campaign manager, Jim Richardson,¹¹ Complainant used the Commission's process to file a meaningless complaint to publicly smear my campaign, the reputations of a Kansas elected official and other local citizens exercising their First Amendment rights.

⁹ MUR 5996 (Tim Bee), Statement of Reasons, Commissioners Matthew S. Petersen, Caroline C. Hunter, and Donald F. McGahn, at 3.

¹⁰ MUR 6357 (American Crossroads, *et al.*) Statement of Reasons, Caroline C. Hunter, Donald F. McGahn, and Matthew S. Petersen, at 4.

¹¹ Statement of Jim Richardson, Chief of Staff to U.S. Rep. Mike Pompeo and campaign manager Pompeo for Congress, Inc., *Kansas GOP race heats up with election complaint*, Associated Press, (July 10, 2014 7:01 P.M.), <http://cjonline.com/news/2014-07-10/kansas-gop-race-heats-election-complaint-4th-district>.

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Response of Kansans for Tiahrt and Todd Tiahrt

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Complainant has wasted the Commission's time and respondents' time with outlandish allegations because there is nothing else to which Complainant can point. No action should be taken by the Commission other than to appropriately dismiss the Complaint since Complainant alleges coordination but provides absolutely no evidence to support the allegation.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Tiahrt", with a long horizontal flourish extending to the right.

Todd Tiahrt

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